

Summary Jurisdiction (Ireland) Amendment Bill
(No. 2).

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short title of Act.
2. Extent and commencement of Act.
3. Mitigation of punishment by court.
4. Scale of imprisonment for nonpayment of money.
5. Costs to be included in small fines.
6. Summary conviction as respects children.
7. Summary conviction with consent as respects young persons.
8. Summary conviction with consent as respects adults.
9. Appeals from summary orders.
10. Special provisions as to warrants of commitment for nonpayment of sums of money, and as to warrants of distress.
11. Power of the Lord Chancellor to make rules.
12. Costs in certain cases.
13. Pleadings and forfeitures.
14. Regulations as to indictable offences dealt with summarily.
15. Return of property by order of court.
16. Special definitions for purposes of the Act.
17. Summary Jurisdiction Acts how applied to other Acts.
18. Saving for Army and Militia Acts.
19. Exceptions from Act.
20. Repeal of Acts.

SCHEDULES.

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B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the Law relating to Courts of Summary Jurisdiction A.D. 1877
in Ireland.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

5 1. This Act may be cited for all purposes as The Summary Jurisdiction (Ireland) Act, 1877. Short title of Act.

2. This Act shall extend to Ireland only, and shall come into operation on the first day of January one thousand eight hundred and seventy-eight. Extent and commencement of Act.

10 3. Where a court of summary jurisdiction has authority to adjudge any person to be imprisoned, or to adjudge any person to pay a fine, the court may, notwithstanding any enactment to the contrary, in the case of imprisonment, impose the same without hard labour, and reduce the prescribed period thereof, or do either
15 of such acts; and in the case of a fine, if it be imposed as in respect of a first offence, may reduce the prescribed amount thereof: And where the punishment directed by this or any other Act of Parliament to be inflicted in respect of any offence punishable on summary conviction, and not being by law a felony, is imprisonment,
20 and no option of a fine is given, a court of summary jurisdiction may, notwithstanding, if the court thinks the justice of the case will be better met by a fine than by imprisonment, impose a fine not exceeding ten pounds. Mitigation of punishment by court.

4. The period of imprisonment to be imposed by a court of summary jurisdiction in respect of the nonpayment of any sum or sums of money adjudged to be paid by a conviction or order, and the amount of which is ascertained by such conviction or
25 [Bill 186.] Scale of imprisonment for nonpayment of money.

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2 *Summary Jurisdiction (Ireland) Amendment (No. 2).* [40 VICT.]

A.D. 1877. order, or in respect of the default of a distress to satisfy any such sum or sums, shall, notwithstanding any enactment to the contrary, be regulated by the following scale; that is to say,

Where the sum or sums of money adjudged to be paid by a conviction or order, and the amount of which is ascertained by the conviction or order	The period of imprisonment to be adjudged in respect of the non-payment of such sum or sums, or of the default of a distress to satisfy such sum or sums, shall not exceed	
Does not or do not exceed ten shillings	- Seven days.	5
Exceeds or exceed ten shillings but does not or do not exceed one pound	- - Fourteen days.	
Exceeds or exceed one pound but does not or do not exceed five pounds	- - One month.	15
Exceeds or exceed five pounds but does not or do not exceed twenty pounds	- Two months.	
Exceeds or exceed twenty pounds	- Three months.	

Cases to be included in small fines.

5. Where a fine imposed on any person on his conviction for any offence by a court of summary jurisdiction does not exceed 20 five shillings, then, unless the court for special reasons thinks fit to order otherwise, such fine shall be deemed to include costs, and an order shall not be made for payment by the defendant to the informant of any costs; and the court shall, unless it thinks fit for special reasons to order otherwise, direct all fees payable or paid by 25 the informant to be remitted or repaid to him; the court may also order the fine or any part thereof to be paid to the informant in or towards the payment of his costs.

Summary cognation with consent of parent or guardian of children.

6. Where a child is charged before a court of summary jurisdiction with any indictable offence other than homicide, the court, 30 if it thinks it expedient so to do, and if the parent or guardian of the child so charged when informed by the court of his right to have the child tried by a jury consents to his being tried summarily, may deal summarily with the offence, and inflict the same description of punishment as might have been inflicted had the case 35 been tried on indictment; Provided as follows:

- (1.) That a sentence of penal servitude shall not be passed, but imprisonment be substituted therefor; and
- (2.) That in the case of imprisonment, the term awarded shall not in any case exceed one month; and
- (3.) That in the case of a fine, the amount awarded shall not in any case exceed forty shillings.

For the purpose of informing the parent or guardian of his right to have the child tried by a jury in the case of an indictable offence,

the court of summary jurisdiction shall, at the conclusion of the case for the prosecution, address a question to such parent or guardian to the following effect: "Do you desire the child to be
 5 "tried by a jury, or do you consent to the case being dealt with
 "summarily?" with a statement, if the court think such statement desirable for the information of the person to whom the question is addressed, of the meaning of the case being dealt with summarily, and of the assizes or sessions (as the case may be) at which the trial will be held if the case is tried by a jury.

10 Where the parent or guardian is not present when a child is charged with an indictable offence before a court of summary jurisdiction, the court may, if it thinks it just so to do, remand the child for the purpose of causing notice to be served on such parent or guardian with a view so far as is practicable of securing his
 15 attendance in court, or the court may deal with the offence as an indictable offence.

This section shall not render punishable for an offence any child who is not, in the opinion of the court before whom he is tried, of sufficient age and capacity to commit crime.

20 If upon the hearing of any charge against a child in respect of any offence triable under this section or otherwise punishable on summary conviction the court of summary jurisdiction thinks it inexpedient to inflict any punishment, that court may dismiss the child either unconditionally or conditionally on his finding a surety
 25 or sureties for good behaviour.

A child shall not, on summary conviction for any offence under this Act or any other Act of Parliament, be imprisoned for a longer period than one month, or be fined a larger sum than forty shillings.

This section shall not prejudice the right of a court of summary
 30 jurisdiction to send a child to a reformatory or industrial school.

7. Where a young person is charged before a court of summary jurisdiction with any indictable offence specified in the First Schedule hereto, the court, if it thinks it expedient so to do, and if the young person charged with the offence, when informed by the
 35 court of his right to be tried by a jury, consents to be tried summarily, may deal summarily with the offence, and in its discretion adjudge such person, if found guilty of the offence, either to pay a fine not exceeding three pounds, or to be imprisoned, with or without hard labour, for any term not exceeding three months.

40 For the purpose of informing a young person of his right to be tried by a jury under this section, the court shall, at the conclusion of the case for the prosecution, address a question to such young person to the following effect: "Do you desire to be tried

A.D. 1877. "by a jury, or do you consent to the case being dealt with summarily?"—with a statement, if the court think such statement desirable for the information of the young person to whom the question is addressed, of the meaning of the case being dealt with summarily, and of the assizes or sessions (as the case may be) at which the trial will be held if the case is tried by a jury.

If upon the hearing of any charge against a young person in respect of any indictable offence specified in the First Schedule hereto, or in respect of any offence punishable on summary conviction, the court of summary jurisdiction thinks it inexpedient to inflict any punishment, that court may dismiss the young person either unconditionally or conditionally on his finding a surety or sureties for good behaviour.

Nothing contained in this Act shall be taken to alter or affect the powers conferred upon justices by the second sub-section of the sixth section of the Act passed in the session of Parliament held in the fourteenth and fifteenth years of the reign of Her present Majesty, chapter ninety-two, or by any other Act regulating such powers, or amending or affecting the said sub-section.

Summary jurisdiction with consent of adult.

8. Where a person is charged before a court of summary jurisdiction with any indictable offence specified in the Second Schedule hereto, the court, if it thinks it expedient so to do, and if the person charged with the offence, when informed by the court of his right to be tried by a jury, consents to be tried summarily, may deal summarily with the offence, and adjudge such person, if found guilty of the offence, to be imprisoned, with or without hard labour, for any term not exceeding three months.

For the purpose of informing a person of his right to be tried by a jury under this section, the court shall, at the conclusion of the case for the prosecution, address to such person a question to the following effect: "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?"—with a statement, if the court think such statement desirable for the information of the person to whom the question is addressed, of the meaning of the case being dealt with summarily, and of the assizes or sessions (as the case may be) at which the trial will be held if the case is tried by a jury.

If upon the hearing of any charge against a person in respect of an indictable offence specified in the said Second Schedule hereto the court of summary jurisdiction thinks it inexpedient to inflict any punishment, that court may dismiss such person either unconditionally or conditionally on his finding a surety or sureties for good behaviour.

This section shall not apply to the case of a child or young person. A.D. 1877.

9. Whenever under any Act of Parliament now in force or hereafter to be passed an order shall be made by a court of summary jurisdiction for payment of any penal or other sum exceeding twenty shillings, or for any term of imprisonment exceeding one month, or for the doing of anything at a greater expense than twenty shillings, or for the estreating of any recognizance to a greater amount than twenty shillings, either party (whether he shall be complainant or defendant) in cases of a civil nature, or the party against whom the order shall have been made in other cases, shall be entitled to appeal against such order; and every such appeal, from and after the commencement of this Act, shall be subject to and regulated by the provisions contained in the twenty-fourth section of the Petty Sessions (Ireland) Act, 1851, as the same are or shall be amended by any other Act, anything in any Act or Acts to the contrary notwithstanding: Provided always, that the time within which the appellant may serve notice of his intention to appeal shall be seven clear days from the date of the order against which the appeal shall be made instead of three days as provided by the said section: Provided also, that nothing in this section shall extend to the police district of Dublin Metropolis nor to any appeals brought under the provisions of the Act passed in the session of Parliament held in the twenty-second year of the reign of Her present Majesty, chapter fourteen.

10. The wearing apparel and bedding of a person and his family, and, to the value of five pounds, the tools and implements of his trade, shall not be taken under a distress issued by a court of summary jurisdiction.

Where, on the return of a warrant of distress issued by a court of summary jurisdiction, it appears to the court that the goods and chattels of the defendant, although insufficient to satisfy the whole amount adjudged to be paid by the conviction or order, have reduced the amount so adjudged to such an extent that the unsatisfied balance, if it had constituted the original amount in respect of which the conviction or order was made, would have subjected the defendant to a maximum term of imprisonment less than the term of imprisonment to which he is liable under such conviction or order, the court shall, by its warrant of commitment, revoke so much of the conviction or order as imposes the term of imprisonment, and shall command the defendant to be

Special provisions as to warrants of commitment in acceptance of money, and as to warrants of distress.

A.D. 1877.

Power of
the Lord
Chancellor
to make
rules.

imprisoned for such less maximum term, instead of for the term originally mentioned in the conviction or order.

11. The Lord Chancellor of Ireland may from time to time make, and when made, rescind, alter, and add to, rules in relation to the following matters, or any of them; that is to say, 5

- (1.) With respect to the forms to be used under the Summary Jurisdiction Acts, or any of them;
- (2.) With respect to the costs and charges payable in any proceeding connected with summary jurisdiction; and
- (3.) With respect to any other matter with respect to which rules 10 are authorised or required to be made under this Act.

The Lord Chancellor may, in the exercise of the power given him by this section, amend, alter, or add to any forms contained in the Summary Jurisdiction Acts in force in Ireland, or any forms relating to summary proceedings contained in any other Act now 15 in force or hereafter to be passed.

Any rule purporting to be made in pursuance of this section shall be presumed to be within the powers of this Act, and shall be laid before both Houses of Parliament within one month after it is made, if Parliament be then sitting, or if not then sitting, within 20 one month after the commencement of the then next session of Parliament, and shall be judicially noticed, and shall be of the same validity as if it had been enacted by Parliament.

Costs in
certain cases.

12. Costs shall be in the discretion of the Chairman of the Quarter Sessions of the county in every case in which the relief 25 granted by him might, if sought for in the manner and within the time prescribed by any statute or statutes in that behalf, have been obtained by an order of a court of summary jurisdiction.

Pleadings
and further
trial.

13. The following enactments shall apply to offences triable by courts of summary jurisdiction; (that is to say.) 30

1. The description of any offence in the words of the Act creating the offence, or in similar words, shall be sufficient in law; and
2. Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany in the same section 35 the description of the offence in the Act creating the offence, may be proved by the defendant, but need not be specified or negatived in the information or complaint, and, if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the 40 informant or complainant; and

3. A warrant of commitment shall not be held void by reason of any defect therein, if it be therein alleged that the offender has been convicted, and there is a good and valid conviction to sustain the same; and

A.D. 1877.

4. All forfeitures incurred in respect of any offence triable by a court of summary jurisdiction may be sold or disposed of in such manner as the court having cognizance of the case in which the forfeiture is incurred may direct, and the proceeds of such sale shall be applied in the like manner as fines.

14. Where any indictable offence is under the circumstances in this Act mentioned authorised to be dealt with summarily, the procedure shall, until the conclusion of the case for the prosecution, be the same in all respects as if the offence were to be dealt with throughout as an indictable offence, but when and so soon as the court assumes the power to deal with such offence summarily, the procedure shall be the same from and after that period as if the offence were an offence punishable on summary conviction and not on indictment:

Regulations as to indictable offences dealt with summarily.

Provided as follows,—

- (1.) The court may make the like order for the restitution of property in any case as might have been made by the court before which the person convicted would have been tried if he had been tried on indictment; and
- (2.) The conviction shall contain a statement as to the consent in the case of a child of his parent or guardian, and in the case of any other person, of such person, to be tried by a court of summary jurisdiction.

15. Where any property has been taken from any person charged with any offence before a court of summary jurisdiction, a statement shall be made to the court of summary jurisdiction before whom such person is brought of the fact of such property having been taken from the person charged, and the court shall, if of opinion that the property or any portion thereof can be returned consistently with the interests of justice and the safety of the person charged, direct such property, or any portion thereof, to be returned to the person charged or to such other person as he may direct.

Return of property by order of court.

16. In this Act, if not inconsistent with the context, the following expressions have the meanings hereinafter respectively assigned to them; that is to say,

Special definitions for purposes of the Act.

[185.]

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A.D. 1877.

"Child" means a person who in the opinion of the court before which he is brought is under the age of twelve years :

"Young person" means a person who in the opinion of the court before which he is brought is of the age of twelve years and under the age of sixteen years :

"Prescribed" means prescribed or provided by any Act, passed before or after the commencement of this Act, which relates to any offences, penalties, costs, sums of money, orders, proceedings, or matters, to the punishment, recovery, making, or conduct of which the Summary Jurisdiction Acts expressly or 10 impliedly apply or may be applied :

"Fine" includes any pecuniary forfeiture or pecuniary compensation payable under a conviction :

"A sum adjudged to be paid by a conviction or order" includes any sum in respect of which a court of summary jurisdiction 15 can issue a warrant of distress :

"Summary Jurisdiction Acts," when used in reference to any matter or proceeding in the police district of Dublin metropolis, means the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district, 20 and when used with reference to any matter or proceeding elsewhere in Ireland, means the Petty Sessions (Ireland) Act, 1851, and any Act amending the same :

"Court of summary jurisdiction" means any court having jurisdiction under the Summary Jurisdiction Acts. 25

Summary :
Jurisdiction
Acts, how
applied to
other Acts.

17. The following regulations shall be made for the purpose of facilitating the application of the Summary Jurisdiction Acts to any Act of Parliament passed after the commencement of this Act ; that is to say,

(1.) Where in any Act passed after the commencement of this 30 Act any offence is directed or authorised to be prosecuted summarily, or on summary conviction, or any fine is directed or authorised to be recovered summarily or on summary conviction, or any other words are used implying that such offence or fine is to be prosecuted or recovered 35 in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall be deemed to apply accordingly ; and

(2.) Where in any Act passed after the commencement of this Act any sum of money is directed or authorised to be 40 recovered summarily, or on complaint made to a court of summary jurisdiction, or in a summary manner, or any other words are used implying that such sum of money

is to be recovered in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall be deemed to apply accordingly; and

- (3.) Where in any Act passed after the commencement of this Act a court of summary jurisdiction is authorised to require any person to do or abstain from doing any act or thing other than the payment of a sum of money; or where any act or thing other than the payment of a sum of money is required or authorised to be done by an order of a court of summary jurisdiction, or is declared capable of being enforced summarily, or by summary order; or where any words are used implying that such act or thing is to be enforced in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall be deemed to apply accordingly.

18. The provisions of this Act which enable a court of summary jurisdiction, notwithstanding any enactment to the contrary, to impose imprisonment without hard labour, and reduce the prescribed period thereof, or do either of such acts, and in the case of a fine, if it be imposed as in respect of a first offence, to reduce the prescribed amount thereof, shall not apply to any proceedings taken under any Act for punishing mutiny and desertion, or under any Act relating to the militia.

Saving for
Army and
Militia Acts.
See
38 & 39 Vict.
c. 101. s. 87.

19. This Act shall not, nor shall any repeal thereunder, apply to any information, complaint, or other proceeding under or by virtue of any of the statutes relating to any of Her Majesty's revenues under the control of the Commissioners of Inland Revenue or the Commissioners of Customs.

Exceptions
from Act.

20. There shall be repealed as from the commencement of this Act—

Repeal of
Acts.

- (1.) The Acts mentioned in the Third Schedule to this Act to the extent in the third column of that schedule mentioned; and

- (2.) So much of any other Act as is inconsistent with this Act.

Provided, that this repeal shall not affect—

- (1.) Anything duly done or suffered before the commencement of this Act under any enactment hereby repealed; or

- (2.) Any right or privilege acquired, or any liability incurred, under any enactment hereby repealed;

- (3.) Any fine, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before

[185.]

B 2

A.D. 1877.

the commencement of this Act against any enactment hereby repealed;

- (4.) The institution or prosecution to its termination of any investigation or legal proceeding, or any other remedy for ascertaining, enforcing, or recovering any such liability, 5 fine, forfeiture, or punishment as aforesaid.

Where any unrepealed Act of Parliament incorporates or refers to any provisions of any Act hereby repealed, such unrepealed Act shall be deemed to incorporate or refer to the corresponding provisions of this Act.

SCHEDULES.

FIRST SCHEDULE.

1. Simple larceny.
2. Offences declared to be punishable as simple larceny.
- 5 3. Larceny from or stealing from the person.
4. Larceny as a clerk or servant.
5. Embellishment by a clerk or servant.
6. Receiving stolen goods, that is to say, committing any of the offences relating to property specified in the ninety-first and
- 10 ninety-fifth sections of the Larceny Act, 1861, being the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-six, or in either of such sections.
7. Obtaining money or goods under false pretences, that is to
- 15 say, committing any of the offences mentioned in section eighty-eight of the Larceny Act, 1861, aforesaid.
8. Aiding, abetting, counselling, or procuring the commission of simple larceny, or of an offence declared to be punishable as simple larceny.
- 20 9. Attempt to commit simple larceny, or an offence declared to be punishable as simple larceny, or to commit larceny from or steal from the person.
10. Attempt to obtain money or goods under false pretences, that is to say, an attempt to commit any of the offences in that
- 25 behalf above mentioned.
11. The offences or any of them in relation to railways and railway carriages mentioned in sections thirty-two and thirty-three of the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, intitled
- 30 "An Act to consolidate and amend the statute law of England and Ireland relating to offences against the person."
12. The offences or any of them relating to railways mentioned in section thirty-five of the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter
- 35 ninety-seven, intitled "An Act to consolidate and amend the statute law of England and Ireland relating to malicious injuries to property."

A.D. 1877.

SECOND SCHEDULE.

1. Simple larceny where the value of the whole of the property alleged to have been stolen does not in the opinion of the court before which the charge is brought exceed forty shillings.
 2. Larceny from or stealing from the person where the value of 5 the whole of the property alleged to have been stolen does not in the opinion of the court before which the charge is brought exceed forty shillings.
 3. Larceny as a clerk or servant where the value of the whole of the property alleged to have been stolen does not in the opinion of 10 the court before which the charge is brought exceed forty shillings.
 4. Embezzlement by a clerk or servant where the value of the whole of the property embezzled does not in the opinion of the court before which the charge is brought exceed forty shillings.
 5. Obtaining money or goods under false pretences, that is to 15 say, committing any of the offences mentioned in section eighty-eight of the Larceny Act, 1861, aforesaid, where the value of the whole of the property alleged to have been obtained under false pretences does not in the opinion of the court before which the charge is brought exceed forty shillings. 20
 6. Aiding, abetting, counselling, or procuring the commission of simple larceny.
 7. Attempt to commit simple larceny.
 8. Attempt to commit larceny from or steal from the person.
 9. Attempt to obtain money or goods under false pretences, that 25 is to say, an attempt to commit any of the offences in that behalf above mentioned.
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THIRD SCHEDULE.

Session and Chapter.	Title or Abbreviated Title.	Extent of Report.
5	18 & 19 Vict. c. 82. - An Act for diminishing expenses and delay in the administration of Criminal Justice in certain cases.	The whole Act, in so far as it relates to Ireland, except sections twenty-two, twenty-three, and twenty-four.
10	31 & 32 Vict. c. 118. - An Act to amend the law relating to Larceny and Embezzlement.	Section two, in so far as it relates to Ireland.
	36 & 37 Vict. c. 82. - An Act to amend the law relating to Small Possessions in Ireland.	The whole Act.

Summary Jurisdiction
(Ireland) Amendment
(No. 2).

A.

BILL

[AS AMENDED IN COMMITTEE]

To amend the Law relating to Courts of
Summary Jurisdiction in Ireland.

(Prepared and brought in by
Sir Colman O'Loghlin and Mr. Barrington.)

*Ordered, by The House of Commons, to be Printed,
& June 1877.*

[Bill 184]

Enacted 20th